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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,973	10/29/2003	Alain Rosenzweig	11348-5-999 (601909-99900)	8822
20583	7590	09/09/2004	EXAMINER	
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017			NGUYEN, TUAN N	
		ART UNIT	PAPER NUMBER	3751

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/698,973	ROSENZWEIG, ALAIN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tuan N. Nguyen	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 June 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-19 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 6/29/04 have been fully considered but they are not persuasive.

With respect to the applicant argument regarding the Shiobara reference in the fourth paragraph of the remarks section at page 2 that "Shiobara does not show or suggest forming any portion of element 8 with a shape that conforms to the shape of the tip ball," the examiner would like to point out that there isn't any limitation in claims 1 and 13, which is claiming the argued step of "forming." The claims merely claiming the contact element (member 14 of the instant application) being configured for contacting the tip ball (in line 9 of claim 13) and having a shape adapted to conform (functional language) to the shape of the tip ball (member 36 of the instant application). However, the Shiobara reference contact element (8c) of the ball pusher (8) does have a shape adapted to conform to the shape of the tip ball (6), which is clearly shown in Shiobara Fig. 4. Like Shiobara, Okamoto contact element (5a) of the ball pusher (5) does have a shape adapted to conform to the shape of the tip ball (1), which is clearly shown in Shiobara Fig. 4.

With respect to the applicant argument regarding the support element "does not contact said biasing element in a lateral direction," the examiner would like to point out that both Shiobara and Okamoto references clearly shown, in Fig. 4 of both references, that the biasing elements (7) and (6), respectively, contact a rear surface of the support element in a similar fashion as that shown in Fig. 2 of the instant application. The

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biasing element does not contact the support element in the lateral direction, which is about the side, which is where lead line of reference numeral (8b) of Shiobara is pointing and where lead line of reference numeral (5) of Okamoto is pointing.

Accordingly, the rejections set forth in the previous office action are maintained as indicated below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Shiobara et al.

Shiobara et al., as seen in Fig. 4, includes a housing (4) as claimed, a tip ball (6) as claimed, a biasing element (7) as claimed, and a ball pusher (8) as claimed.

2. Claims 1-9, 11-13 and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Okamoto et al.

Okamoto et al., as seen in Fig. 4, includes a housing (2) as claimed, a tip ball (1) as claimed, a biasing element (6) as claimed, and a ball pusher (5, 5a) as claimed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okamoto et al. in view of Shiobara et al.

Although the support element (5) of the Okamoto et al. reference does not include at least one cut out portion from a front face to a rear face thereof, attention is directed to the Shiobara et al., which discloses an analogous point assembly having a ball pusher with a support element portion and a contact element as claimed; wherein the support element have cut out portions from a front face to a rear face thereof to provide ink passages thereat. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Okamoto et al. support element device, cut out portions as, for example, taught by Shiobara et al. in order to provide a better ink flow.

#### *Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 703-306-9046. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tuan Nguyen  
Primary Examiner  
Art Unit 3751  
9/7/04

TN